

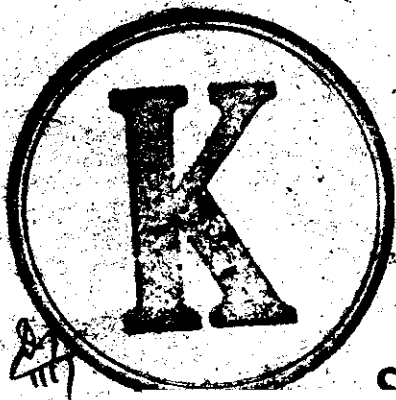
1948.

File No. O/B.S.C.(B)L.

S.M.O. 148

Legal Department

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Subject:—

Opinions under the
Bombay She-cattle (Bovines)
Licence and Maintenance
Order 1944

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File No.

O/B.S.C.(B)L. S.M.O. 148

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C O N T E N T S

Legal Department File No. O/P.S.C. (B)L. & M.O./48

Sr. No.	R. I. / O.L.	Subject	Pages.
		Opinions under the Bombay She Cattle (Bovines) Licence and Maintenance Order 1944.	
1.	<u>3656</u> 15-4-48	Clauses 11 and 14 Whether licences can be refused to cattle owners in the City, whose stables are in appalling and unhealthy conditions and whether by refusing such licences the cattle owners can be compelled to send their cattle of the City	1-2
2.	<u>4836</u> 20-5-1948	----- Do----- Do-----	3-4

MJR/9/7
5 Cs.

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Subsection (1) of section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 gives power to the Provincial Government to make an order providing for regulating the maintenance, supply and distribution of, or trade and commerce in, cattle. Sub-section (2) of that section further provides that an order made under sub-section (1) may provide for regulating by licence, permit or otherwise the movement, transport, distribution, disposal, acquisition, use and keeping of cattle. These provisions are wide enough to empower Government to require any person to whom a licence is given in respect of his cattle, to maintain cattle in good condition. Clause 11 of the Bombay She-cattle (Bovines) Licence and Maintenance Order, 1944 already contains a provision to the effect that a licensee in respect of his licensed cattle and a stable-keeper or other person in charge of licensed cattle, shall maintain or cause to be maintained the cattle in good condition to the satisfaction of the Licensing Authority, whether they are in milk or not. Clause 14 of the said Order requires that every licensee and other stable-keeper or other person in charge of licensed cattle shall comply with any directions that may be given from time to time by the Licensing Authority in regard to the maintenance of licensed cattle. These provisions which are undoubtedly intra vires of the Act can be utilised in the present case and it will be open to the Government to cancel the licence under clause 10 of the Order, of any person if it is found that the ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ licensee has not been maintaining cattle in good condition or is not complying with any directions given in regard to the maintenance of the licensed cattle. It is also open to the Licensing

Authority to refuse to renew the licence of any such person who has been found in default. If such refusal has the effect of driving the cattle out of the City of Bombay, the object which the Civil Supplies Department has in view will have been achieved. If however it is considered necessary to take power expressly for removing cattle not maintained in good condition out of the City it would be feasible to amend the Bombay She-cattle (Bovines) License and Maintenance Order for the purpose. Such an amendment will be covered by the provisions of clause (b) of Sub-section (1) of Section 4 of the Act .

Sd/- P.M.Lad

O.C.

14/4

Remembrancer of Legal Affairs.

U.O.R. to C.S.D. No 3656, dated 15-4-1944

Mjr/9/.

4 Cs.

Legal Department.

The power vesting in a licensing authority to grant or renew a license under the Bombay She-Cattle (Bovines) License & Maintenance Order, 1944, is no doubt discretionary. But it cannot be used in an arbitrary manner. As pointed in R.L.A's opinion No. 3656 dated 5th April 1948 the Order can be suitably amended for the purpose. The Order should provide for the conditions which must be complied with before a license under the Order can be granted or renewed. It will be for the administrative department to lay down such conditions.

Sd/- J.R.Dhurandhar

O.C.

19/5

Additional Secretary to Government.

U.O.R. ~~XXXXX~~ to M.C., No. 4836, dated 20th May 1948.

Mjr/9/7

4 Cs.